

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE, 1998

BEFORE

THE HON'BLE MR.JUSTICE A M FAROOQ

WRIT PETITION NO.36833/93

Between:

Sri Rajashekar
age Major
s/o Basavegowda
Occ: Agriculture
r/o Dindagatta
Palya Hobli
Alur Taluk
Hassan District

257
Petitioner

(By Sri Ravi B Naik - Advocate)

And:

1. State of Karnataka
represented by its Secretary
Revenue Department
Vidhana Soudha
Bangalore.
2. The Deputy Commissioner
Hassan District
Hassan.
3. The Assistant Commissioner
Sakaleshpur Sub-Division
Sakaleshpur, Hassan Dist.
4. The Tahsildar,
Alur Taluk,
Hassan District.
5. Smt.Kamamma
age Major,
w/o Puttaswamigowda
Honnnavalli village



255

Palya Hobli,
Alur Taluk,
Hassan District

Respondents

(By Sri B M Krishnabhat - Adv for R5
Sri S S Guttal - HCGP for R1 to R4)

Writ petition is filed under Article 226 of the Constitution praying to quash the order of the respondent No.2 dated 4/10/1993 vide Annexure-G.

This writ petition coming on for hearing before the Court today, Court made the following:

ORDER

It is the case of the petitioner in this writ petition that he is in unauthorised occupation of 10 guntas of land in sy.No.178 of Honnavalli village and 32 guntas of land in sy.No.1 of Dindagatta village since last 30 years and he has been cultivating the same. That he has filed an application before the 4th respondent for grant of those lands under the Land Grant Rules. It is clarified during the argument that such an application was filed during the year 1991 and the learned counsel produced the certified copy of the application filed by him before the 4th respondent.

I am satisfied from the said certified copy that the petitioner has filed such an application. The said certificate copy is returned to the learned counsel appearing for the petitioner.



256

2. It is the further case of the petitioner that without his knowledge, the 5th respondent filed an application later on claiming 2 acres 4 guntas in sy.No.178 and no application seems to have been filed for grant of 32 guntas in sy.No.1 of Dindigatta village. That the petitioner later on learnt that the said extent of land was granted to the 5th respondent. In the meanwhile, it is the case of the petitioner, that the third respondent Asst. Commissioner after verifying the records and after spot inspection, had passed an order on 11/3/1992 directing levy of TT fine on the petitioner for the above mentioned lands in his unauthorised occupation. Pursuant to the said order passed by the asst. Commissioner, it is the case of the petitioner, that he was called upon by the Tahsildar to pay the TT fine and the petitioner accordingly deposited the amount under challan. It is the case of the petitioner that he had filed O S No.67/93 on the file of the learned Munsiff, Sakaleshpur for injunction against the 5th respondent and secured an order in the said suit. It is further submitted by the petitioner that the 5th respondent preferred an appeal before the Deputy Commissioner challenging the order dated 11/3/1992 passed by the Asst. Commissioner. The



Deputy Commissioner passed an order dated 30/10/1991 to the effect that no proceedings to be initiated in respect of the lands till 5th respondent is legally evicted. Further the Deputy Commissioner by an order dated 4/10/1993 directed levy of TT fine on the 5th respondent. It is the said order that is being challenged by the petitioner in this writ petition.

3. The contesting respondent has filed objections to the petition. In her objection statement, she has denied the averments made by the petitioner. I have been taken through the materials on record and the different orders passed by the concerned authorities. In the view I am taking in this writ petition, it is not necessary to consider the case on merits.

4. The materials on record clearly disclose that the petitioner has made an application for grant of the land which according to him are in his unauthorised occupation and cultivation. If the 5th respondent has also filed application for grant of ^{the same} ~~some~~ land or portions of the same land, the concerned authority ought to have considered both the applications together and disposed of. The 4th

A

respondent, Tahsildar on coming to know that two rival applications are there for regularisation of unauthorised occupation of the same lands, should have referred both the applications to the Regularisation Committee, which should have enquired into both the applications together.

5. After considering the materials on record and the facts and circumstances of the case, I am of the view that the impugned order passed by the Deputy Commissioner without going through the records and without taking into consideration the earlier orders passed in favour of the petitioner by the concerned authorities, cannot be sustained. This writ petition is accordingly allowed and the impugned order bearing No.RA/17/92-93 dated 4/10/1993 produced by the petitioner as per Annexure-G alongwith the writ petition is hereby quashed. The matter shall stand remitted to the 4th respondent, who shall take both the applications of the petitioner and the 5th respondent and refer the same to the Regularisation Committee in accordance with the amended provisions of the Land Revenue Act and the Committee shall enquire into and consider both the applications and pass order in accordance with law. This Court

A

259

-6 -

while entertaining the writ petition has passed the interim order in favour of the petitioner and the said order has been continued and the application filed by the 5th respondent for vacating the said order has been rejected. Hence the parties to maintain status quo during the pendency of the proceedings before the concerned L authorities.

Sd/-
JUDGE

akd*



